

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Bell South Tariff FCC No. 1)	
Transmittal No. 623)	
Qwest Tariff FCC No. 1)	WCB/PPD No. 02-08
Transmittal No. 120)	
)	

Order

Adopted: April 1, 2002

Released: April 1, 2002

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order we suspend for five months and set for investigation BellSouth Telecommunications, Inc. (BellSouth) Tariff FCC No. 1, Transmittal No. 623 and Qwest Corporation (Qwest) Tariff FCC No. 1, Transmittal No. 120. These transmittals seek to establish rate increases, over a two-year period, to recover extraordinary costs associated with the implementation of thousands-block number pooling.

II. BACKGROUND

2. In its Number Resource Optimization *Third Report and Order*,¹ the Commission sought to build on its efforts to ensure continued efficient use of the limited numbering resources of the North American Numbering Plan (NANP) so that these resources do not exhaust prematurely. In addition, the Commission sought to ensure that all carriers have the numbering resources necessary to compete in the telecommunications marketplace. The *Third Report and Order* specifically addressed the federal cost recovery for national thousands-block number pooling. The Commission concluded that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional special recovery would be appropriate. The Commission also addressed specific cost recovery provisions for price cap local exchange carriers.

¹ *Numbering Resource Optimization*, CC Docket Nos. 96-98 and 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001)(*Third Report and Order*).

3. On March 18, 2002, BellSouth filed Transmittal No. 623, revising Tariff FCC No. 1, with a scheduled effective date of April 2, 2002. Also on March 18, Qwest filed Transmittal No. 120, revising Tariff FCC No. 1, with a scheduled effective date of April 2, 2002. On March 25, 2002, WorldCom, Inc. (WorldCom) filed a petition to reject or, in the alternative, suspend and investigate the BellSouth and Qwest tariffs.² AT&T Corp. (AT&T) filed its petition seeking similar relief on March 25, 2002.³ On March 28, 2002, BellSouth filed a reply to the petitions of AT&T and WorldCom.⁴ Qwest filed its reply on March 29, 2002.⁵ BellSouth and Qwest generally assert that their tariff filings comply with the showing required by the *Third Report and Order*.

4. AT&T asserts that Qwest and BellSouth have improperly supported their proposed rate increases, included costs specifically excluded by Commission rulings,⁶ and failed to reflect the offset of significant cost reductions achieved by thousands-block number pooling.⁷ WorldCom argues that Qwest overstated its network upgrade costs⁸ and improperly included service delivery costs.⁹ WorldCom further asserts that both BellSouth and Qwest overstated operations support system (OSS) costs.¹⁰

III. DISCUSSION

5. The *Third Report and Order* provides that any adjustment to price caps resulting from the Commission's thousands-block number pooling mandates shall be made as a claim for extraordinary exogenous adjustment. That Order further states that LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula must overcome a rebuttable presumption that no additional recovery is justified.¹¹ This requirement places a relatively high burden on the carriers to demonstrate that

² Petition of WorldCom, Inc., filed March 25, 2002 ("WorldCom Petition").

³ Petition of AT&T Corp., filed March 25, 2002. AT&T filed again on March 26, 2002 incorporating minor corrections to its prior filing ("AT&T Petition").

⁴ Reply of BellSouth Telecommunications Inc., filed March 28, 2002 ("BellSouth Reply").

⁵ Reply of Qwest Corporation, filed March 29, 2002 ("Qwest Reply").

⁶ AT&T Petition at 5-14.

⁷ *Id.* at 14-19.

⁸ WorldCom Petition at 2-3.

⁹ *Id.* at 7-6.

¹⁰ *Id.* at 4-6.

¹¹ *Third Report and Order*, 17 FCC Rcd at 271.

costs incurred by implementing thousands-block number pooling, as discussed in the order, exceed the savings. Part of this burden includes justifying the carriers' cost savings calculation in a manner consistent with the discussions of those savings in the *Third Report and Order* and in preceding orders in the docket. Furthermore, the *Third Report and Order* provides substantial discussion and detail concerning the nature of the showings required and the issues that must be resolved to result in a carrier's rebutting the stated presumption.

6. In particular, the *Third Report and Order* states that, "[t]o qualify for an exogenous adjustment, carriers must show that the costs for which extraordinary treatment is sought exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief that would otherwise have been required in the absence of pooling."¹² That Order also discusses and raises issues that must be addressed to support a showing that costs exceed cost savings. For example, the Commission stated:

Unlike other mandates of the Commission, thousands-block number pooling may reduce network costs. Some comments argued that savings associated with thousands-block number pooling are speculative or *de minimis*. Others argue that implementation of thousands-block number pooling will save substantial costs over current area code relief practices and could result in a cost savings. In the absence of carrier-specific evidence, we do not endorse either line or argument. However, as the Commission has already observed, to the extent that thousands-block number pooling postpones or avoids area code relief and ultimately the replacement of the existing NANP, all carriers and subscribers will benefit.¹³

7. In their transmittals, both Qwest and BellSouth considered only cost savings that they estimate will accrue within the two-year period during which the carriers may recover their purported costs. AT&T asserts that the primary purpose of the thousands-block number pooling is to delay a multi-billion dollar NANP replacement cost. Neither Qwest nor BellSouth has provided sufficient evidence and analysis to establish that it is reasonable to limit cost savings to the avoided costs for area code relief for a two-year period. Thus, the time period applicable to calculating the cost savings and the scope of cost savings discussed in the order must be resolved prior to permitting rates to take effect.

8. Another issue raised by petitioners concerns allowable OSS costs. The Commission, in the *Third Report and Order*, concluded that "only costs that were incurred 'for the provision of' thousands-block number pooling are eligible for recovery through this extraordinary mechanism. . . ." It further concluded that "costs specifically incurred in the narrowly defined thousands-block pooling functions are those incurred specifically to identify, donate and receive blocks of pooled numbers, to create and populate the regional databases and carriers' local copies of these databases, and to adapt the procedures for querying these databases

¹² *Id.* at 271-272.

¹³ *Id.* (footnotes omitted).

and for routing calls so as to accommodate a number pooling environment.”¹⁴

9. Both BellSouth and Qwest include costs of adapting ordering and provisioning OSSs in addition to costs directly related to pooling operations. WorldCom alleges that these and other costs included by BellSouth and Qwest exceed allowable OSS costs.¹⁵ We find that the issues concerning OSS costs presented by WorldCom raise sufficient question concerning the lawfulness of the proposed rates.

10. After reviewing the transmittals, petitions, and replies, we conclude that BellSouth’s Transmittal No. 623 and Qwest’s Transmittal No. 120 raise substantial questions of lawfulness warranting suspension and investigation. BellSouth and Qwest have not provided sufficient cost justification and other support to permit a full assessment of the reasonableness of the proposed charges. As proposed, neither carrier meets its burden of proof necessary to rebut the Commission’s presumption that no additional recovery is justified.

11. We therefore suspend BellSouth’s Transmittal No. 623 and Qwest’s Transmittal No. 120, in their entirety, for five months and set them for investigation. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this order.

IV. *EX PARTE* REQUIREMENTS

12. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁶ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b).

V. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission’s Rules, 47 C.F.R. §§ 0.91 and 0.291, the revisions filed by BellSouth Telecommunications, Inc. under Transmittal No. 623 and by Qwest Corporation under Transmittal No. 120, ARE SUSPENDED for five months and an investigation IS INSTITUTED.

14. IT IS FURTHER ORDERED that each local exchange carrier required to suspend its tariff revisions pursuant to this order SHALL FILE a supplement within five business days

¹⁴ *Id.* at 271.

¹⁵ See WorldCom Petition at 4-6.

¹⁶ See 47 C.F.R. § 1.1206(b)(2), as revised.

from the release date of this order reflecting the suspension. Carriers should cite the “DA” number on the instant order as the authority for the filings.

15. IT IS FURTHER ORDERED that AT&T Corp.’s petition to reject or to suspend and investigate BellSouth Telecommunications, Inc. Tariff FCC No. 1, Transmittal No. 623 and Qwest Corporation Tariff FCC No. 1, Transmittal No. 120, and WorldCom Inc.’s petition to reject or, in the alternative, to suspend and investigate BellSouth Telecommunications, Inc. Tariff FCC No. 1, Transmittal No. 623 and Qwest Corporation Tariff FCC No. 1, Transmittal No. 120, ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
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